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**City Council Work Session Minutes
Quasi-Judicial Land Use Hearings**

**Monday, February 11, 2019
6:15 p.m., Community Auditorium**

***Minutes are unofficial until approved by Council.
Council approved minutes as presented February 25, 2019.***

1. ROLL CALL:

Mayor Peter Truax called the Work Session to order at 6:09 p.m.

ROLL CALL: COUNCIL PRESENT: Timothy Rippe; Ronald Thompson; Elena Uhing; Adolph “Val” Valfre; Malynda Wenzl; and Mayor Peter Truax. **COUNCIL ABSENT:** Thomas Johnston, Council President, excused.

STAFF PRESENT: Jesse VanderZanden, City Manager; Chris Crean, City Attorney; Paul Downey, Administrative Services Director; Bryan Pohl, Community Development Director; and Anna Ruggles, City Recorder.

2. WORK SESSION: QUASI-JUDICIAL LAND USE HEARINGS

Pohl and VanderZanden facilitated the above-noted work session, noting Chris Crean, City Attorney, was invited to provide a refresher session to Council on the conduct of quasi-judicial land use hearings and the appeal process [as specified in Development Code §10.1.640, Appeals, and Council Rules of Procedures §8, Hearings]. In conclusion of the above-noted report, Pohl advised staff will not be discussing any facts or merits of the Planning Commission’s decision, which has been appealed by the applicant and will be scheduled for a legislative appeal hearing at a later date.

Council Discussion:

Mayor Truax opened the floor and roundtable discussion ensued pertaining to the conduct of quasi-judicial land use hearings. In response to various Council inquiries and scenarios pertaining to hearing procedures and disclosure of ex parte contacts, bias and conflicts of interest, Crean advised the appeal hearing is conducted on the record, meaning only issues in the record at the Planning Commission hearing submitted in writing or orally can be appealed to the Council, and the Council hearing is limited only to those issues raised in the appeal petition. Quasi-judicial decisions must be supported by findings based on evidence in the records of proceedings. Findings should be based on the relevant decision criteria, the basic facts discovered in the hearing, and a complete statement of reasons justifying the decision. The required final action must be made within 120 days of the application being deemed completed unless the applicant waives the 120-day rule (pursuant to ORS 215.427, Final action). In addition, Crean outlined the conduct of quasi-judicial hearing requirements as noted below:

- Open hearing and summarize hearing script/procedures.
- Disclose any ex parte contacts, bias or conflicts of interest. (Impartiality). [ORS

Chapter 244]. Anyone may challenge Councilor's impartiality.

- Staff Report [criteria that applies to the application are contained in the staff report], staff recommendation and questions of staff.
- Applicant/Appellant Testimony.
- Testimony in support of the application.
- Testimony in opposition of the application.
- Neutral testimony.
- Rebuttal (if any) by Applicant/Appellant.
- Close public testimony portion, or continue hearing (if closed, continue on; if continued, refer below).
- Staff's response to testimony (if any).
- Questions of staff (if any) from the Council.
- Council discussion/deliberation.

Council may make a final decision on the matter or may continue the matter to a time and date certain in the future. If continuing the matter, announce the time and date of the continued hearing to avoid having to publish notice.

- Motion, ask for a second to approve/deny the Order [application].
- Restate motion.
- Call for the vote.

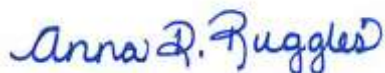
If there are any amendments to the Order, the presiding officer asks for a motion to amend; if yes, read amendment in full, ask for a second to amend and Council votes on the amendment. If decision requires an Order and it is prepared, introduce it using the adoption procedure. If an Order is not prepared, announce the Order, with necessary findings, will be before the Council at its next meeting. Note: It is not necessary to hold the record open on request. The City Council may decide to do so, but it is not required. In conclusion of the above-noted discussion, VanderZanden advised if Councilors have any additional concerns to please see him.

Council took no formal action nor made any formal decisions during the work session.

3. **ADJOURNMENT**

Mayor Truax adjourned the work session at 6:35 p.m.

Respectfully submitted,



Anna D. Ruggles, CMC, City Recorder